

Amendment No. 1 to HB3633

Ramsey
Signature of Sponsor

AMEND Senate Bill No. 3581

House Bill No. 3633*

by deleting all language after the enacting clause and by substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 57-5-108, is amended by adding the following language as a new subsection (n):

(n)

(1)

(A) As a pilot project to terminate July 1, 2014, unless extended by the general assembly, when a local or municipal beer board responsible for controlling the sale of beer or malt beverages within any county having a population of not less than three hundred thirty-six thousand four hundred (336,400) nor more than four hundred thirty-two thousand three hundred (432,300) according to the 2010 federal census or any subsequent federal census, finds violations, as defined in this chapter, in the sale of beer or malt beverages consumed on-premises of an establishment located within the local or municipal beer board's jurisdiction that result in the beer board suspending the operation of or revoking the permit of the establishment where the violation occurred, the beer board is authorized to notify the alcoholic beverage commission by certified mail, return receipt requested, of the action taken by the beer board. Such notice shall include the record of evidence and the determination made by the beer board in suspending or revoking the permit.

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(B) Upon receipt of such notice, the alcoholic beverage commission shall take the actions required pursuant to § 57-4-202(b) with respect to violations as defined in chapter 4 of this title related to the license for the sale of alcoholic beverages for consumption on the premises at the location where the violation of this chapter occurred.

(2) The suspension or revocation decision of the beer board made pursuant to subdivision (1)(A) is final, and any party aggrieved thereby may appeal the decision of the beer board in accordance with the appeal procedures of this chapter.

(o)

(1) As a pilot project to terminate July 1, 2014, unless extended by the general assembly, if, pursuant to § 57-4-202(c), the alcoholic beverage commission sends a certified letter, return receipt requested to the local or municipal beer board responsible for controlling the sale of beer or malt beverages within any county having a population of not less than three hundred thirty-six thousand four hundred (336,400) nor more than four hundred thirty-two thousand three hundred (432,300), according to the 2010 federal census or any subsequent federal census, providing notice that the commission has suspended or revoked the license of an establishment for a violation of title 57, chapter 4, upon receipt of the certified letter, the beer board shall:

(A) Schedule a hearing for the next regularly scheduled meeting of the commission to be held at least fourteen (14) days following the date the beer board receives the certified letter to provide an opportunity for the permit holder to appear and show cause why the permit to sell beer on the premises should not be suspended or revoked for violations of this chapter based on actions taken by the alcoholic beverage commission pursuant to § 57-4-202(c); and

(B) Notify the individual or business entity, which is listed as the permit holder at the same location where the alcoholic beverage license had been suspended or revoked, of the date and time of the hearing.

(2) If the beer board finds that a sufficient violation or violations of this chapter have occurred at such location, then the beer board shall suspend or revoke the permit to the same extent and at least for the same period of time as the alcoholic beverage commission has suspended or revoked the license of the establishment pursuant to § 57-4-202(c).

(3) If the permit holder fails to appear or decides to surrender the permit to the beer board in lieu of appearing at the hearing, the permit shall be suspended or revoked by the beer board and, no permit to sell beer or malt beverages on the premises shall be issued by the beer board to any person for the location where the alcoholic beverage commission had suspended or revoked the license or permit pursuant to § 57-4-202(c) for the period of time included in the decision of the alcoholic beverage commission.

(4) The decision of the beer board is final, and any party aggrieved thereby may appeal the decision of the beer board in accordance with this chapter.

SECTION 2. Tennessee Code Annotated, Section 57-4-202(b), is amended by deleting the subsection in its entirety and by substituting instead the following language:

(b)

(1) As a pilot project to terminate July 1, 2014, unless extended by the general assembly, if, pursuant to § 57-5-108(n), a local or municipal beer board responsible for controlling the sale of beer or malt beverages within any county having a population of not less than three hundred thirty-six thousand four hundred (336,400) nor more than four hundred thirty-two thousand three hundred (432,300), according to the 2010 federal census or any subsequent federal census, sends a certified letter, return receipt requested to the executive director of the alcoholic beverage commission providing notice that the beer board has suspended or revoked the permit of an establishment for a violation of title 57, chapter 5, upon receipt of the certified letter, the executive director of the alcoholic beverage commission shall:

(A) Schedule a show-cause hearing for the next regularly scheduled meeting of the commission to be held at least fourteen (14) days following the date the executive director receives the certified letter to provide an opportunity for the licensee to appear and show cause why the license to sell alcoholic beverages on the premises should not be suspended or revoked for violations of this chapter based on actions taken by the beer board pursuant to § 57-5-108(n); and

(B) Notify the individual or business entity, which is listed as the licensee at the same location where the beer permit had

been suspended or revoked, of the date and time of the show-cause hearing.

(2) If the alcoholic beverage commission finds that a sufficient violation or violations of this chapter have occurred at such location, then the commission shall suspend or revoke the license of the establishment to the same extent and at least for the same period of time as the beer board has suspended or revoked the permit of the establishment pursuant to § 57-5-108(n).

(3) If the licensee fails to appear or decides to surrender the license to the alcoholic beverage commission in lieu of appearing at the show-cause hearing, the license shall be suspended or revoked by the commission and, no license to sell alcoholic beverages on the premises shall be issued by the commission to any person for the location where the beer board suspended or revoked the license or permit pursuant to § 57-5-108(n) for the period of time included in the decision of the beer board.

(4) Notwithstanding § 57-1-201(b)(1), the alcoholic beverage commission shall not have the authority to and shall not issue a fine in lieu of suspending or revoking the license of an establishment whose license had been suspended or revoked by the beer board pursuant to § 57-5-108(n).

(5) The decision of the alcoholic beverage commission is final, and any party aggrieved thereby may appeal the decision of the commission in accordance with the uniform administrative procedures act, compiled in title 4, chapter 5.

(c)

(1)

(A) As a pilot project to terminate July 1, 2014, unless extended by the general assembly, when the alcoholic beverage commission suspends the license to sell alcoholic beverages on the premises at any an establishment located in any county having a population of not less than three hundred thirty-six thousand four hundred (336,400) nor more than four hundred thirty-two thousand three hundred (432,300), according to the 2010 federal census or any subsequent federal census, for any violation or violations, as defined in this chapter, the commission is authorized to notify the local or municipal beer board responsible for controlling the sale of beer or malt beverages within such county by certified mail, return receipt requested, of the action taken by the commission. Such notice shall include the record of evidence and the determination made by the alcohol beverage commission in suspending or revoking the license.

(B) Upon receipt of such notice, the local or municipal beer board shall take the actions required pursuant to § 57-5-108(o) with respect to violations as defined in chapter 5 of this title related to the permit for the sale of beer or malt beverages for consumption on the premises at the location where the violation of this chapter occurred.

(2) The suspension or revocation decision of the commission made pursuant to subdivision (1)(A) is final, and any party aggrieved thereby may appeal the decision of the commission in accordance with the uniform administrative procedures act, compiled in title 4, chapter 5.

(d) The executive director of the alcoholic beverage commission shall file a report with the state and local government committees of each house no later than March 15, 2014, on the success or failure of the pilot project created

pursuant to subsections (b) and (c) and § 57-5-108(n) and (o), together with the executive director's recommendations as to whether the pilot project should be extended, continued or terminated and recommendations for legislative action, if any are required, based on the executive director's findings. The report, at a minimum, shall contain:

- (1) The number of permits or licenses suspended or revoked;
- (2) Whether such suspensions or revocations were appealed;
- (3) The extent to which a court upheld or overturned such suspensions or revocations;
- (4) Whether licensees or permittees surrendered their license or permit in lieu of having a license suspended or revoked;
- (5) Whether a new license or permit was issued to the same person or business entity for a new or the same location, if such person or business entity had previously surrendered a license or permit in accordance with subdivision (4); and
- (6) The effect the implementation of the pilot project had on the activities of the establishments holding licenses and permits issued by the alcoholic beverage commission or the local or municipal beer board responsible for controlling the sale of beer within the locality impacted by the pilot project.

SECTION 3. This act shall take effect upon becoming a law, the public welfare requiring it.